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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,598	04/01/2004	Karl-Heinz Fuchs	Ruff 27	9681
23474	7590	11/16/2004	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1699			NICOLAS, FREDERICK C	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/815,598	KARL-HEINZ FUCHS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Frederick C. Nicolas	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- ✓ Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 April 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a scarf joint" as recited in claim 7, line 3.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- As to claim 7, line 3, it is unclear by what is meant by "a scarf joint"?

### ***Claim Objections***

4. Claim 5 is objected to because of the following informalities: in claim 5, lines 1-2, it appears that the limitation "the inner hollow body" lacks insufficient antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5,7-9,11 are rejected under 35 U.S.C. 102(b) as being anticipated by De Laforcade 6,474,861.

De Laforcade discloses a discharge device (1) for at least one medium with a media reservoir, which comprises a pumping device (5), a discharge opening (7), the media reservoir has at least two media reservoir sections (2,13) positions rigidly with respect to one another and which pass into one another in their interior through a step shoulder (15) as seen in Figure 2A, the step shoulder has a sharp circumferential edge as seen in Figure 2A, at least one media reservoir section is made from a crystalline material and has an almost smooth inner wall (col. 3, ll. 63-67, and note: it is inherent that the at least one media reservoir (2) of De Laforcade has an almost smooth inner wall in as much as the applicant's claimed invention), wherein an outer contour of the inner hollow body is at least stagewise matched to an inner contour of the outer hollow body as seen in Figure 2A, at least one sealing area (16) is provided on an inner wall of a media reservoir section facing the media chambers, a circumferential shape for receiving an at least stagewise spherical sealing element (20) as seen in Figure 2A.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujioka et al. 5,171,219.

Fujioka discloses a discharge device as seen in Figure 10, which comprises a pumping device (1e) having a discharge opening, the media reservoir has at least two media reservoir sections (30,2) positions rigidly with respect to one another and which pass into one another in their interior through a step shoulder as seen in Figure 10, the step shoulder has a sharp circumferential edge as seen in Figure 10, at least one media

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reservoir section is made from a crystalline material and has an almost smooth inner wall (col. 4, ll. 32-50, and note: it is inherent that the at least one media reservoir (2) of Fujioka has an almost smooth inner wall in as much as the applicant's claimed invention).

8. Claims 1,11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gores 3,735,900.

Gores discloses a discharge device as seen in Figure 1, which comprises a pumping device (40), a discharge opening (55), the media reservoir has at least two media reservoir sections (35,10) positioned rigidly with respect to one another and which pass into one another in their interior through a step shoulder as seen in Figure 2, at least one force-limited retention device (40) with different locking forces as seen in Figures 3-5.

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Laforcade 6,474,861.

De Laforcade has taught all the features of the claimed invention except that the at least two hollow bodies are integrally joined in the superimposed area.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally joined the two hollow bodies of De Laforcade in the superimposed area, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al. 5,171,219 in view of Inokuchi 6,332,721.

Fujioka et al. have taught all the features of the claimed invention except that the tube sections are welded together. Inokuchi teaches the use of welded glass to glass (col. 4, ll. 25-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Inokuchi's teaching onto the device of Fujioka et al., in order to utilize an alternate means of sealing the tube sections.

### ***Conclusion***

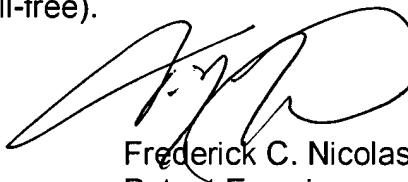
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Song 6,655,525, Gueret 5,692,644, Leoncavallo 6,305,576, Sarnoff et al. 3,070,094, Rossi et al. 5,909,753, Haber et al. 5,352,196 and Hurschman 4,031,892 disclose other types of discharge device.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y Mar, can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN  
November 12, 2004



11/12/04

Frederick C. Nicolas  
Patent Examiner  
Art Unit 3754